

jAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAA

Date of Decision: 8.1.1996

FOR APPROVAL AND SIGNATURE

THE HON'BLE MR. JUSTICE N N MATHUR

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder ?
5. Whether it is to be circulated to the Civil Judge ?

...T.....T.....T.....T.....T.....J.....T.....T.....T..

Mr D V Mehta, Advocate for the petitioner  
Mr P G Desai, Advocate for the respondent

CORAM : N N MATHUR, J.  
(january 8, 1996)

ORAL JUDGMENT

The grievance voiced by the petitioner in this Special Civil Application is that the respondent-Municipal Corporation is giving benefit of use of various public halls such as community halls, picnic house, party plots etc. to the councillors, officers, servants, ex-servants, or their relatives. There are no guidelines in the matter of allotment of the said halls, houses and plots owned and maintained by the Corporation.

2. It is contended by the learned Advocate for the petitioner that the petitioners are tax-payers and in absence of any specific rule, they are entitled to

allotment of the said public halls etc. He submits that there is no provision regarding fixing of priority of allotment in the Rules Annexure - I. He further submits that there cannot even be any priority as that will be violative of Article 14 of the Constitution of India.

3. Mr P G Desai, learned Advocate for the respondent Corporation submits that there is no arbitrariness in the matter of allotment of party plots/community halls etc. of the Corporation, and in fact the allotment is being done as per the Rules - Annexure 'A' and Resolution of the Standing Committee adopted from time to time as per the practice. He further submits that the system of priority is recognized in every organisation.

5. I have heard the learned counsel for the parties. It is true that under the rules - Annexure 'A', no priority is provided but under clause 23 of the said Rules, power has been given to the Commissioner to examine individual cases on merit. It appears that the said Rules are not statutory Rules, but have been framed by the Standing Committee as per the Resolution dated 13.6.1979 and approved by the General House of the Corporation on 29.7.1979. There is substance in the contention of Mr Desai that the Corporation has power to fix priority allotment of community halls etc. of the Corporation. However, such priority has to be on reasonable basis. It is desirable that priority is fixed and is made known to everybody. Since the rules have been framed by the Standing Committee and the same was approved by the General House, it would be appropriate if the Standing Committee adopts an appropriate Resolution fixing the priority for the allotment of community halls/party plots etc. belonging to the Corporation and the same is placed before the General House for approval.

In view of the above. this Special Civil Application is partly allowed to the aforesaid extent. Rule made absolute accordingly.

...